

HOUSE _____ **AMENDMENT NO.** _____

Offered By

AMEND House Bill No. 1455, Page 2, Section 620.478, Line 24, by inserting after all of said section and line the following:

“620.1878. For the purposes of sections 620.1875 to 620.1890, the following terms shall mean:

(1) "Approval", a document submitted by the department to the qualified company that states the benefits that may be provided by this program;

(2) "Average wage", the new payroll divided by the number of new jobs;

(3) "Commencement of operations", the starting date for the qualified company's first new employee, which must be no later than twelve months from the date of the approval;

(4) "County average wage", the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated;

(5) "Department", the Missouri department of economic development;

(6) "Director", the director of the department of economic development;

(7) "Employee", a person employed by a qualified company;

(8) "Full-time employee", an employee of the qualified company that is scheduled to work an average of at least thirty-five hours per week for a twelve-month period, and one for which the qualified company offers health insurance and pays at least fifty percent of such insurance premiums;

(9) "High-impact project", a qualified company that, within two years from commencement of operations, creates one hundred or more new jobs;

(10) "Local incentives", the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but shall not include loans or other funds provided to the qualified company that must be repaid by the qualified company to

1 the political subdivision;

2 (11) "NAICS", the 1997 edition of the North American Industry Classification System as
3 prepared by the Executive Office of the President, Office of Management and Budget. Any NAICS
4 sector, subsector, industry group or industry identified in this section shall include its corresponding
5 classification in subsequent federal industry classification systems;

6 (12) "New direct local revenue", the present value of the dollar amount of direct net new tax
7 revenues of the local political subdivisions likely to be produced by the project over a ten-year period as
8 calculated by the department, excluding local earnings tax, and net new utility revenues, provided the
9 local incentives include a discount or other direct incentives from utilities owned or operated by the
10 political subdivision;

11 (13) "New capital investment", shall include costs incurred by the qualified company at the
12 project facility after acceptance by the qualified company of the proposal for benefits from the department
13 or the approval of the notice of intent, whichever occurs first, for real or personal property, and may
14 include the value of finance or capital leases for real or personal property for the term of such lease at the
15 project facility executed after acceptance by the qualified company of the proposal for benefits from the
16 department or approval of the notice of intent;

17 (14) "New investment", the purchase or leasing of new tangible assets to be placed in operation at
18 the project facility, which will be directly related to the new jobs;

19 [(14)] (15) "New job", the number of full-time employees located at the project facility that
20 exceeds the project facility base employment less any decrease in the number of full-time employees at
21 related facilities below the related facility base employment. No job that was created prior to the date of
22 the notice of intent shall be deemed a new job. An employee that spends less than fifty percent of the
23 employee's work time at the facility is still considered to be located at a facility if the employee receives
24 his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the
25 employee's income from such employment is Missouri income, and the employee is paid at or above the
26 state average wage;

27 [(15)] (16) "New payroll", the amount of taxable wages of full-time employees, excluding
28 owners, located at the project facility that exceeds the project facility base payroll. If full-time
29 employment at related facilities is below the related facility base employment, any decrease in payroll for
30 full-time employees at the related facilities below that related facility base payroll shall also be subtracted
31 to determine new payroll;

32 [(16)] (17) "Notice of intent", a form developed by the department, completed by the qualified
33 company and submitted to the department which states the qualified company's intent to hire new jobs and
34 request benefits under this program;

35 [(17)] (18) "Percent of local incentives", the amount of local incentives divided by the amount of
36 new direct local revenue;

37 [(18)] (19) "Program", the Missouri quality jobs program provided in sections 620.1875 to
38 620.1890;

39 [(19)] (20) "Project facility", the building used by a qualified company at which the new jobs and

new investment will be located. A project facility may include separate buildings that are located within fifteen miles of each other or within the same county such that their purpose and operations are interrelated;

[(20)] (21) "Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the notice of intent;

[(21)] (22) "Project facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at the project facility in the twelve months prior to the notice of intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on an appropriate measure, as determined by the department;

[(22)] (23) "Project period", the time period that the benefits are provided to a qualified company;

(24) "Projected net fiscal benefit", the total fiscal benefit to the state less any state benefits offered to the qualified company;

[(23)] (25) "Qualified company", a firm, partnership, joint venture, association, private or public corporation whether organized for profit or not, or headquarters of such entity registered to do business in Missouri that is the owner or operator of a project facility, offers health insurance to all full-time employees of all facilities located in this state, and pays at least fifty percent of such insurance premiums. For the purposes of sections 620.1875 to 620.1890, the term "qualified company" shall not include:

- (a) Gambling establishments (NAICS industry group 7132);
- (b) Retail trade establishments (NAICS sectors 44 and 45);
- (c) Food and drinking places (NAICS subsector 722);
- (d) Public utilities (NAICS 221 including water and sewer services);
- (e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state;
- (f) Any company that has filed for or has publicly announced its intention to file for bankruptcy protection. However, a company that has filed for or has publicly announced its intention to file for bankruptcy between January 1, 2009, and December 31, 2009, may be a qualified company provided that such company:
 - a. Certifies to the department that it plans to reorganize and not to liquidate; and
 - b. After its bankruptcy petition has been filed, it produces proof, in a form and at times satisfactory to the department, that it is not delinquent in filing any tax returns or making any payment due to the state of Missouri, including but not limited to all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization. Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title

11 U.S.C., shall immediately notify the department and shall forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained;

(g) Educational services (NAICS sector 61);

(h) Religious organizations (NAICS industry group 8131);

(i) Public administration (NAICS sector 92);

(j) Ethanol distillation or production; or

(k) Biodiesel production. Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied;

[(24)] (26) "Qualified renewable energy sources" shall not be construed to include ethanol distillation or production or biodiesel production; however, it shall include:

(a) Open-looped biomass;

(b) Close-looped biomass;

(c) Solar;

(d) Wind;

(e) Geothermal; and

(f) Hydropower;

[(25)] (27) "Related company" means:

(a) A corporation, partnership, trust, or association controlled by the qualified company;

(b) An individual, corporation, partnership, trust, or association in control of the qualified company; or

(c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, "control of a corporation" shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, "control of a partnership or association" shall mean ownership of at least fifty percent of the capital or profits interest in such partnership or association, "control of a trust" shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust, and ownership shall be determined as provided in Section 318 of the Internal Revenue Code of 1986, as amended;

[(26)] (28) "Related facility", a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility;

[(27)] (29) "Related facility base employment", the greater of the number of full-time employees located at all related facilities on the date of the notice of intent or for the twelve-month period prior to the date of the notice of intent, the average number of full-time employees located at all related facilities of the qualified company or a related company located in this state;

[(28)] (30) "Related facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months

1 prior to the filing of the notice of intent, not including the payroll of the owners of the qualified company
2 unless the qualified company is participating in an employee stock ownership plan. For purposes of
3 calculating the benefits under this program, the amount of related facility base payroll shall increase each
4 year based on an appropriate measure, as determined by the department;

5 [(29)] (31) "Rural area", a county in Missouri with a population less than seventy-five thousand
6 or that does not contain an individual city with a population greater than fifty thousand according to the
7 most recent federal decennial census;

8 [(30)] (32) "Small and expanding business project", a qualified company that within two years of
9 the date of the approval creates a minimum of twenty new jobs if the project facility is located in a rural
10 area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer
11 than one hundred new jobs regardless of the location of the project facility;

12 [(31)] (33) "Tax credits", tax credits issued by the department to offset the state income taxes
13 imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this program;

14 [(32)] (34) "Technology business project", a qualified company that within two years of the date
15 of the approval creates a minimum of ten new jobs involved in the operations of a company:

16 (a) Which is a technology company, as determined by a regulation promulgated by the
17 department under the provisions of section 620.1884 or classified by NAICS codes;

18 (b) Which owns or leases a facility which produces electricity derived from qualified renewable
19 energy sources, or produces fuel for the generation of electricity from qualified renewable energy sources,
20 but does not include any company that has received the alcohol mixture credit, alcohol credit, or small
21 ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the previous tax year;

22 (c) Which researches, develops, or manufactures power system technology for: aerospace; space;
23 defense; hybrid vehicles; or implantable or wearable medical devices; or

24 (d) Which is a clinical molecular diagnostic laboratory focused on detecting and monitoring
25 infections in immunocompromised patient populations;

26 [(33)] (35) "Withholding tax", the state tax imposed by sections 143.191 to 143.265. For
27 purposes of this program, the withholding tax shall be computed using a schedule as determined by the
28 department based on average wages.

29 620.1881. 1. The department of economic development shall respond within thirty days to a
30 company who provides a notice of intent with either an approval or a rejection of the notice of intent. The
31 department shall give preference to qualified companies and projects targeted at an area of the state which
32 has recently been classified as a disaster area by the federal government. Failure to respond on behalf of
33 the department of economic development shall result in the notice of intent being deemed an approval for
34 the purposes of this section. A qualified company who is provided an approval for a project shall be
35 allowed a benefit as provided in this program in the amount and duration provided in this section. A
36 qualified company may receive additional periods for subsequent new jobs at the same facility after the
37 full initial period if the minimum thresholds are met as set forth in sections 620.1875 to 620.1890. There
38 is no limit on the number of periods a qualified company may participate in the program, as long as the
39 minimum thresholds are achieved and the qualified company provides the department with the required
40 reporting and is in proper compliance for this program or other state programs. A qualified company may

elect to file a notice of intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved and the qualified company provides the department with the required reporting and is in proper compliance for this program and other state programs; however, the qualified company may not receive any further benefit under the original approval for jobs created after the date of the new notice of intent, and any jobs created before the new notice of intent may not be included as new jobs for the purpose of benefit calculation in relation to the new approval. When a qualified company has filed and received approval of a notice of intent and subsequently files another notice of intent, the department shall apply the definition of project facility under subdivision [(19)] (20) of section 620.1878 to the new notice of intent as well as all previously approved notices of intent and shall determine the application of the definitions of new job, new payroll, project facility base employment, and project facility base payroll accordingly.

2. Notwithstanding any provision of law to the contrary, any qualified company that is awarded benefits under this program may not simultaneously receive tax credits or exemptions under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections 135.900 to 135.906 at the same project facility. The benefits available to the company under any other state programs for which the company is eligible and which utilize withholding tax from the new jobs of the company must first be credited to the other state program before the withholding retention level applicable under the Missouri quality jobs act will begin to accrue. These other state programs include, but are not limited to, the new jobs training program under sections 178.892 to 178.896, the job retention program under sections 178.760 to 178.764, the real property tax increment allocation redevelopment act, sections 99.800 to 99.865, or the Missouri downtown and rural economic stimulus act under sections 99.915 to 99.980. If any qualified company also participates in the new jobs training program in sections 178.892 to 178.896, the company shall retain no withholding tax, but the department shall issue a refundable tax credit for the full amount of benefit allowed under this [subdivision] subsection. The calendar year annual maximum amount of tax credits which may be issued to a qualifying company that also participates in the new job training program shall be increased by an amount equivalent to the withholding tax retained by that company under the new jobs training program. However, if the combined benefits of the quality jobs program and the new jobs training program exceed the projected state benefit of the project, as determined by the department of economic development through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the amount that would not cause the combined benefits to exceed the projected state benefit. Any taxpayer who is awarded benefits under this program who knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.

3. The types of projects and the amount of benefits to be provided are:

(1) Small and expanding business projects: in exchange for the consideration provided by the new tax revenues and other economic stimuli that will be generated by the new jobs created by the program, a qualified company may retain an amount equal to the withholding tax as calculated under subdivision [(33)] (35) of section 620.1878 from the new jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265 for a period of

1 three years from the date the required number of new jobs were created if the average wage of the new
2 payroll equals or exceeds the county average wage or for a period of five years from the date the required
3 number of new jobs were created if the average wage of the new payroll equals or exceeds one hundred
4 twenty percent of the county average wage;

5 (2) Technology business projects: in exchange for the consideration provided by the new tax
6 revenues and other economic stimuli that will be generated by the new jobs created by the program, a
7 qualified company may retain an amount equal to a maximum of five percent of new payroll for a period
8 of five years from the date the required number of jobs were created from the withholding tax of the new
9 jobs that would otherwise be withheld and remitted by the qualified company under the provisions of
10 sections 143.191 to 143.265 if the average wage of the new payroll equals or exceeds the county average
11 wage. An additional one-half percent of new payroll may be added to the five percent maximum if the
12 average wage of the new payroll in any year exceeds one hundred twenty percent of the county average
13 wage in the county in which the project facility is located, plus an additional one-half percent of new
14 payroll may be added if the average wage of the new payroll in any year exceeds one hundred forty
15 percent of the average wage in the county in which the project facility is located. The department shall
16 issue a refundable tax credit for any difference between the amount of benefit allowed under this
17 subdivision and the amount of withholding tax retained by the company, in the event the withholding tax
18 is not sufficient to provide the entire amount of benefit due to the qualified company under this
19 subdivision;

20 (3) High impact projects: in exchange for the consideration provided by the new tax revenues
21 and other economic stimuli that will be generated by the new jobs created by the program, a qualified
22 company may retain an amount from the withholding tax of the new jobs that would otherwise be
23 withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265,
24 equal to three percent of new payroll for a period of five years from the date the required number of jobs
25 were created if the average wage of the new payroll equals or exceeds the county average wage of the
26 county in which the project facility is located. For high-impact projects in a facility located within two
27 adjacent counties, the new payroll shall equal or exceed the higher county average wage of the adjacent
28 counties. The percentage of payroll allowed under this subdivision shall be three and one-half percent of
29 new payroll if the average wage of the new payroll in any year exceeds one hundred twenty percent of the
30 county average wage in the county in which the project facility is located. The percentage of payroll
31 allowed under this subdivision shall be four percent of new payroll if the average wage of the new payroll
32 in any year exceeds one hundred forty percent of the county average wage in the county in which the
33 project facility is located. An additional one percent of new payroll may be added to these percentages if
34 local incentives equal between ten percent and twenty-four percent of the new direct local revenue; an
35 additional two percent of new payroll is added to these percentages if the local incentives equal between
36 twenty-five percent and forty-nine percent of the new direct local revenue; or an additional three percent
37 of payroll is added to these percentages if the local incentives equal fifty percent or more of the new direct
38 local revenue. The department shall issue a refundable tax credit for any difference between the amount
39 of benefit allowed under this subdivision and the amount of withholding tax retained by the company, in
40 the event the withholding tax is not sufficient to provide the entire amount of benefit due to the qualified

1 company under this subdivision;

2 (4) Job retention projects: a qualified company may receive a tax credit for the retention of jobs
3 in this state, provided the qualified company and the project meets all of the following conditions:

4 (a) For each of the twenty-four months preceding the year in which application for the program is
5 made the qualified company must have maintained at least one thousand full-time employees at the
6 employer's site in the state at which the jobs are based, and the average wage of such employees must
7 meet or exceed the county average wage;

8 (b) The qualified company retained at the project facility the level of full-time employees that
9 existed in the taxable year immediately preceding the year in which application for the program is made;

10 (c) The qualified company is considered to have a significant statewide effect on the economy,
11 and has been determined to represent a substantial risk of relocation from the state by the quality jobs
12 advisory task force established in section 620.1887; provided, however, until such time as the initial
13 at-large members of the quality jobs advisory task force are appointed, this determination shall be made by
14 the director of the department of economic development;

15 (d) The qualified company in the project facility will cause to be invested a minimum of seventy
16 million dollars in new investment prior to the end of two years or will cause to be invested a minimum of
17 thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at
18 least seventy million dollars during each of the years for which a credit is claimed; and

19 (e) The local taxing entities shall provide local incentives of at least fifty percent of the new
20 direct local revenues created by the project over a ten-year period. The quality jobs advisory task force
21 may recommend to the department of economic development that appropriate penalties be applied to the
22 company for violating the agreement. The amount of the job retention credit granted may be equal to up
23 to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a
24 period of five years. The calendar year annual maximum amount of tax credit that may be issued to any
25 qualified company for a job retention project or combination of job retention projects shall be seven
26 hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million
27 dollars if such action is proposed by the department and approved by the quality jobs advisory task force
28 established in section 620.1887; provided, however, until such time as the initial at-large members of the
29 quality jobs advisory task force are appointed, this determination shall be made by the director of the
30 department of economic development. In considering such a request, the task force shall rely on economic
31 modeling and other information supplied by the department when requesting the increased limit on behalf
32 of the job retention project. In no event shall the total amount of all tax credits issued for the entire job
33 retention program under this subdivision exceed three million dollars annually. Notwithstanding the
34 above, no tax credits shall be issued for job retention projects approved by the department after August
35 30, 2013;

36 (5) Job retention projects: In lieu of the benefits provided under subdivision (4) of this subsection
37 and in exchange for the consideration provided by the tax revenues and other economic stimuli that will
38 be generated by the retention of jobs and new capital investment in this state, a qualified company may be
39 eligible to receive the benefits described in this subdivision if the department determines that there is a
40 significant probability that the qualified company would relocate to another state in the absence of the

benefits authorized under this subdivision;

(a) A qualified company meeting the requirements of this subdivision may be authorized to retain an amount not to exceed one hundred percent of the withholding tax from full-time jobs that would otherwise be withheld and remitted by the qualified company under the provisions of sections 143.191 to 143.265, for a period of ten years if the average wage of the retained jobs equals or exceeds ninety percent of the county average wage. In order to receive benefits under this subdivision, a qualified company shall enter into a written agreement, with the department, containing detailed performance requirements and repayment penalties in the event of nonperformance. The amount of benefits awarded to a qualified company under this subdivision shall not exceed the projected net fiscal benefit and shall not exceed the least amount necessary to obtain the qualified company's commitment to retain the necessary number of jobs and make the required new capital investment;

(b) In order to be eligible to receive benefits under this subdivision, the qualified company shall meet each of the following conditions:

a. The qualified company shall agree to retain, for a period of ten years from the date of approval of the notice of intent, at least one hundred and twenty-five full-time employees; and

b. The qualified company shall agree to make a new capital investment at the project facility within three years from the approval of the notice of intent in an amount equal to one half the total benefits provided under this subdivision, which are offered to the qualified company by the department;

(c) In awarding benefits under this subdivision, the department shall consider the following factors:

a. The significance of the qualified company's need for program benefits;

b. The amount of projected net fiscal benefit to the state of the project and the period in which the state would realize such net fiscal benefit;

c. The overall size and quality of the proposed project, including the number of new jobs, new capital investment, proposed wages, growth potential of the qualified company, the potential multiplier effect of the project, and similar factors;

d. The financial stability and creditworthiness of the qualified company;

e. The level of economic distress in the area;

f. An evaluation of the competitiveness of alternative locations for the project facility, as applicable;

(d) Upon approval of a notice of intent to request benefits under this subdivision, the department and the qualified company shall enter into a written agreement covering the applicable project period. The agreement shall specify, at a minimum:

a. The committed number of full-time employees, payroll, and new capital investment for each year during the project period;

b. Clawback provisions, as may be required by the department; and

c. Any other provisions the department may require;

(6) In no event shall the total amount of all benefits provided in subdivisions (5) and (7) of this subsection for all qualified companies under this subdivision exceed six million dollars for any fiscal year beginning on or after July 1, 2012;

1 (7) A qualified company meeting the requirements of subdivision (5) of this subsection may elect
2 a one-time issuance of tax credits in an amount not to exceed eighty percent of the amount the qualified
3 company may otherwise be eligible to retain for a period of ten years under subdivision (5) of this
4 subsection;

5 (a) In addition to satisfying each of the requirements of subdivision (5) of this subsection, a
6 qualified company requesting tax credits under this subdivision shall provide to the department, prior to
7 approval, evidence of commitments for the financing of any applicable new capital investment. The new
8 capital investment shall be made at the project facility within three years of the date of approval;

9 (b) Upon approval of a notice of intent to request tax credits under this subdivision, the
10 department and the qualified company shall enter into a written agreement covering the applicable project
11 period. The agreement shall specify, at a minimum:

12 a. The committed number of jobs, payroll, and new capital investment for each year during the
13 project period;

14 b. The date or time period during which the tax credits shall be issued, which may be immediately
15 or over a period not to exceed three years from the date of approval;

16 c. Penalties, including the recapture of tax credits awarded under this subdivision, for failure to
17 satisfy the requirements provided under this subdivision and subdivision (5) of this subsection; and

18 d. Any other provisions the department may require;

19 (8) Prior to the award of benefits under subdivision (5) or (7) of this subsection, the director of
20 the department shall notify the president pro tem of the senate and the speaker of the house of
21 representatives of the amount of the proposed award, including the county and city in which the project
22 facility is located, the number of retained jobs and the average wages for such retained jobs, the estimated
23 amount of new capital investment, and the amount of the projected net fiscal benefit to the state from the
24 project; provided that, nothing herein shall require the disclosure of information otherwise protected from
25 disclosure by law;

26 [(5)] (9) Small business job retention and flood survivor relief: a qualified company may receive
27 a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this
28 state for each job retained over a three-year period, provided that:

29 (a) The qualified company did not receive any state or federal benefits, incentives, or tax relief or
30 abatement in locating its facility in a flood plain;

31 (b) The qualified company and related companies have fewer than one hundred employees at the
32 time application for the program is made;

33 (c) The average wage of the qualified company's and related companies' employees must meet or
34 exceed the county average wage;

35 (d) All of the qualified company's and related companies' facilities are located in this state;

36 (e) The facilities at the primary business site in this state have been directly damaged by
37 floodwater rising above the level of a five hundred year flood at least two years, but fewer than eight
38 years, prior to the time application is made;

39 (f) The qualified company made significant efforts to protect the facilities prior to any impending
40 danger from rising floodwaters;

(g) For each year it receives tax credits under sections 620.1875 to 620.1890, the qualified company and related companies retained, at the company's facilities in this state, at least the level of full-time, year-round employees that existed in the taxable year immediately preceding the year in which application for the program is made; and

(h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company cumulatively invests at least two million dollars in capital improvements in facilities and equipment located at such facilities that are not located within a five hundred year flood plain as designated by the Federal Emergency Management Agency, and amended from time to time. The amount of the small business job retention and flood survivor relief credit granted may be equal to up to one hundred percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of three years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a small business job retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the maximum amount may be increased up to five hundred thousand dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting an increase in the limit on behalf of the small business job retention and flood survivor relief project. In no event shall the total amount of all tax credits issued for the entire small business job retention and flood survivor relief program under this subdivision exceed five hundred thousand dollars annually. Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued for small business job retention and flood survivor relief projects approved by the department after August 30, 2010.

4. The qualified company shall provide an annual report of the number of jobs and such other information as may be required by the department to document the basis for the benefits of this program. The department may withhold the approval of any benefits until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or new payroll. Upon approval by the department, the qualified company may begin the retention of the withholding taxes when it reaches the minimum number of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be issued upon satisfaction by the department that the qualified company has exceeded the county average wage and the minimum number of new jobs. In such annual report, if the average wage is below the county average wage, the qualified company has not maintained the employee insurance as required, or if the number of new jobs is below the minimum, the qualified company shall not receive tax credits or retain the withholding tax for the balance of the benefit period. In the case of a qualified company that initially filed a notice of intent and received an approval from the department for high-impact benefits and the minimum number of new jobs in an annual report is below the minimum for high-impact projects, the company shall not receive tax credits for the balance of the benefit period but may continue to retain the withholding taxes if it otherwise meets the requirements of a small and expanding business under this program.

5. The maximum calendar year annual tax credits issued for the entire program shall not exceed eighty million dollars, with ten million dollars reserved to be awarded under subsection 14 of this section. Notwithstanding any provision of law to the contrary, the maximum annual tax credits authorized under

1 section 135.535 are hereby reduced from ten million dollars to eight million dollars, with the balance of
2 two million dollars transferred to this program. There shall be no limit on the amount of withholding
3 taxes that may be retained by approved companies under this program.

4 6. The department shall allocate the annual tax credits based on the date of the approval,
5 reserving such tax credits based on the department's best estimate of new jobs and new payroll of the
6 project, and the other factors in the determination of benefits of this program. However, the annual
7 issuance of tax credits is subject to the annual verification of the actual new payroll. The allocation of tax
8 credits for the period assigned to a project shall expire if, within two years from the date of
9 commencement of operations, or approval if applicable, the minimum thresholds have not been achieved.
10 The qualified company may retain authorized amounts from the withholding tax under this section once
11 the minimum new jobs thresholds are met for the duration of the project period. No benefits shall be
12 provided under this program until the qualified company meets the minimum new jobs thresholds. In the
13 event the qualified company does not meet the minimum new job threshold, the qualified company may
14 submit a new notice of intent or the department may provide a new approval for a new project of the
15 qualified company at the project facility or other facilities.

16 7. For a qualified company with flow-through tax treatment to its members, partners, or
17 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion to their
18 share of ownership on the last day of the qualified company's tax period.

19 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148, and may
20 not be carried forward but shall be claimed within one year of the close of the taxable year for which they
21 were issued, except as provided under subdivision (4) of subsection 3 of this section.

22 9. Tax credits authorized by this section may be transferred, sold, or assigned by filing a
23 notarized endorsement thereof with the department that names the transferee, the amount of tax credit
24 transferred, and the value received for the credit, as well as any other information reasonably requested by
25 the department.

26 10. Prior to the issuance of tax credits, the department shall verify through the department of
27 revenue, or any other state department, that the tax credit applicant does not owe any delinquent income,
28 sales, or use tax or interest or penalties on such taxes, or any delinquent fees or assessments levied by any
29 state department and through the department of insurance, financial institutions and professional
30 registration that the applicant does not owe any delinquent insurance taxes. Such delinquency shall not
31 affect the authorization of the application for such tax credits, except that at issuance credits shall be first
32 applied to the delinquency and any amount issued shall be reduced by the applicant's tax delinquency. If
33 the department of revenue or the department of insurance, financial institutions and professional
34 registration, or any other state department, concludes that a taxpayer is delinquent after June fifteenth but
35 before July first of any year and the application of tax credits to such delinquency causes a tax deficiency
36 on behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the deficiency in
37 which interest, penalties, and additions to tax shall be tolled. After applying all available credits toward a
38 tax delinquency, the administering agency shall notify the appropriate department and that department
39 shall update the amount of outstanding delinquent tax owed by the applicant. If any credits remain after
40 satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be issued to

1 the applicant, subject to the restrictions of other provisions of law.

2 11. Except as provided under subdivision (4) of subsection 3 of this section, the director of
3 revenue shall issue a refund to the qualified company to the extent that the amount of credits allowed in
4 this section exceeds the amount of the qualified company's income tax.

5 12. An employee of a qualified company will receive full credit for the amount of tax withheld as
6 provided in section 143.211.

7 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any person or
8 circumstance is held invalid, the invalidity shall not affect other provisions or application of these sections
9 which can be given effect without the invalid provisions or application, and to this end, the provisions of
10 sections 620.1875 to 620.1890 are hereby declared severable.

11 14. For each calendar year beginning on or after January 1, 2013, but ending on or before
12 December 31, 2014, in lieu of all other benefits available under this program, the department may
13 authorize a qualified company meeting the requirements of this subsection and subsection 3 of this section
14 to be issued tax credits in an amount not to exceed seven percent of new payroll from the new jobs created
15 projected over a period of five years from the date the required number of new jobs are to be created, or, if
16 the qualified company is in a targeted industry identified by the department by rule following a strategic
17 planning process as being critical to the state's economic security and growth, the department may
18 authorize tax credits in an amount not to exceed nine percent of new payroll from the new jobs created,
19 projected over a period of five years. The amount of benefits awarded to a qualified company under this
20 section shall not exceed the projected net fiscal benefit to the state over a ten year period, as determined
21 by the department, and may not exceed the least amount necessary to obtain the qualified company's
22 commitment to initiate the project. In no event shall the tax credits authorized under this subsection
23 exceed ten million dollars annually.

24 (1) Prior to approval, a qualified company requesting benefits under this subsection shall provide
25 evidence of commitments for the financing of any applicable new capital investment. The new capital
26 investment shall be made at the project facility within two years of the date of approval of the notice of
27 intent.

28 (2) In awarding tax credits under this subsection, the department shall consider factors set forth in
29 subsection 2 of this section.

30 (3) Upon approval of a notice of intent to receive tax credits under this subsection, the
31 department and the qualified company shall enter into a written agreement covering the applicable project
32 period containing detailed performance requirements and repayment penalties in event of
33 nonperformance. The agreement shall specify, at a minimum:

34 (a) The committed number of new jobs, payroll, and new capital investment for each year during
35 the project period;

36 (b) The date or time period during which the tax credits shall be issued, which may be
37 immediately or over a period not to exceed two years from the date of approval of the notice of intent;

38 (c) Clawback provisions provided under subdivision (4) of this subsection; and

39 (d) Any other provisions necessary to effectuate the intent of this subsection.

40 (4) The following clawback provisions shall apply to any benefits awarded under this subsection:

1 (a) If a qualified company fails to meet any requirements of this section, including the applicable
2 number of new jobs created or new capital investment within two years from the date of approval of its
3 notice of intent, the qualified company shall repay the face amount of all tax credits received from the
4 department, plus interest of nine percent per annum from the date the tax credits were issued. However,
5 the director may, in his or her discretion, provide an extension up to two additional years or reduce such
6 payment, if such failure is caused by documented unforeseen events that negatively affected the
7 operations at the project facility that were not under the control of the qualified company;

8 (b) If, during any year of the project period, the average wage of the new payroll paid by the
9 qualified company fails to equal or exceed the applicable percentage of the county average wage, or the
10 qualified company fails to offer and pay fifty percent of the premium for health insurance to all of its full-
11 time employees located in this state, the company shall refund to the state an amount equal to the face
12 amount of all tax credits received from the department under this program, divided by the number of years
13 in the project period. In addition to the refund, the qualified company shall pay interest of nine percent
14 per annum from the date the tax credits were issued on the amount of the refund;

15 (c) If the qualified company fails to meet its payroll commitment for any year during the project
16 period, it shall refund to the state a portion of its total benefit received under this section based on the
17 following formula: the total amount of tax credits received by the qualified company, divided by the
18 number of years during the project period, and multiplied by a fraction, the numerator of which is the
19 contractually agreed-upon amount of payroll for that year minus the actual amount of payroll made by the
20 company during the year, and the denominator of which is the contractually agreed upon amount of
21 payroll made for that same year. In addition to the refund, the qualified company shall pay interest of nine
22 percent per annum from the date the tax credits were issued on the amount of the refund;

23 (d) If the qualified company fails to meet its payroll or new capital investment requirements for
24 any year during the project period and the director has a reasonable belief that the qualified company will
25 not be able to meet its performance requirements during all or any portion of the remainder of the project
26 period, the director may require the company to repay all or a proportionate amount of the total tax credits
27 received by the company attributable to the remaining years of the project period as well as the current
28 year, plus interest of nine percent per annum on the amount of repayment from the date the tax credits
29 were issued.

30 (5) Prior to the award of benefits under this subsection, the director of the department shall notify
31 the president pro tem of the senate and the speaker of the house of representatives of the amount of the
32 proposed award, including the county and city in which the project facility is located, the number of new
33 jobs and the proposed wages for such new jobs, the estimated amount of new capital investment, and the
34 amount of the projected net fiscal benefit to the state from the project; provided that, nothing herein shall
35 require the disclosure of information otherwise protected from disclosure by law.”; and

36
37 Further amend said bill by amending the title, enacting clause, and intersectional references
38 accordingly.